



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No: MT-033-FOR; Docket ID: OSM-2011-0012]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing the withdrawal of a proposed rule pertaining to an amendment to the Montana regulatory program (the Montana program) and its coal rules and regulations. Montana submitted the amendment at their own initiative to modify coal prospecting procedures and allow for a new type of coal prospecting permit.

DATES: The proposed rule published October 17, 2011, at 76 FR 64047, is withdrawn [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Program
- II. Submission of the Withdrawal

I. Background on the Montana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface

coal mining and reclamation operations in accordance with the requirements of this Act...; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, Federal Register (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Submission of the Withdrawal

By letter dated July 20, 2011, Montana sent us an amendment to its program (SATS No. MT-033-FOR, Administrative Record Docket ID No. OSM-2011-0012) under SMCRA (30 U.S.C. 1201 et seq.). Montana submitted the amendment to include changes made to the Montana Strip and Underground Mine Reclamation Act (MSUMRA) as a result of the 2011 Montana Legislature passage of Senate Bill 286 relating to coal prospecting. Montana sent the amendment to include the changes made at its own initiative.

We announced receipt of the proposed amendment in the October 17, 2011, Federal Register (76 FR 64047). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record ID No. OSM-2011-0012-0004). We did not hold a public hearing or meeting because no one requested one. We received comments from the Montana Historical Society, Westmoreland Resources Inc., the Bureau of Land Management, and the Mine Safety and Health Administration (Administrative Record ID No. OSM-2011-0012-0010).

During our review of the amendment, we identified areas needing clarification at MSUMRA Section 82-4-226. We notified Montana of our concerns by letter dated November 22, 2011 (Administrative Record ID No. OSM-2011-0012-0005).

We delayed final rulemaking to afford Montana the opportunity to submit new material to address the concerns. Montana responded in a letter dated December 22, 2011, by submitting additional explanatory information (Administrative Record ID No. OSM-2011-0012-0006). Based upon Montana's additional explanatory information for its amendment, we reopened the public comment period in the March 27, 2012, Federal Register [(77 FR 18149); (Administrative Record Document ID No. OSM-2011-0012-0007)] and

provided an opportunity for a public hearing or meeting on the adequacy of the revised amendment. We did not hold a public hearing or meeting because no one requested one. We received comments from the State Historic Preservation Office, the Mine Safety and Health Administration, the US Geological Survey, and the Bureau of Land Management (Administrative Record ID No. OSM-2011-0012-0011).

In a letter dated October 5, 2012 (Administrative Record Document ID No. OSM-2011-0012-0013), Montana notified us that they were withdrawing the proposed amendment at this time. Montana stated in the letter that they were submitting additional rule language to be reviewed informally by OSM in anticipation of promulgation of the revised rule through the Montana State Legislature sometime around April 2013.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Accordingly, the proposed rule published October 17, 2011, at 76 FR 64047, is withdrawn [Insert date of publication in the Federal Register].

October 16, 2012

Allen D. Klein

Date

Regional Director

Western Region

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